

Newsletter

June 2016

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Activities from Continuous Training Program (CTP)

War crimes with the focus on sexual violence

From 01-02 June 2016, Kosovo Judicial Institute in cooperation with EULEX and UNWOMEN has organised training session II on the topic “War crimes with the focus on sexual violence”.

The training was organized with the intention to further advance the knowledge and professional preparation of judges and prosecutors and other professionals about elements and issues that deal with crimes of sexual violence and successful criminal prosecution based on actual circumstances in Kosovo.

In the framework of this training session there were elaborated the applicable law in Kosovo including international criminal legislation, common and specific elements of rape as a war crime, ways of gathering

facts, modalities of access to information and the complexity of the process in reaching the accused person, perpetrators of sexual violence crimes in Kosovo during the armed conflict. The training was mainly focused on group exercises, on which occasion the participants, being divided into groups, were involved in preparation of the cases related to the identification of specific elements, category of crimes, form of responsibility and inter-connection of these elements.

The beneficiaries of this training were judges of basic level, prosecutors of basic and special level and police investigators from the Department of War Crimes at the Kosovo Police.



Forensic and organization of the Kosovo Forensic Agency

On June 02 2016, Kosovo Judicial Institute within the Continuous Training Program (CTP), has conducted training on the topic "Forensic and organization of the Kosovo Forensic Agency".

This training has aimed the treatment of dilemmas and difficulties that are encountered in judicial practice regarding forensic medicine expertise and forensics, with a focus on the elaboration of the content of the request, expertise's report and its interpretation.

Within this training there were elaborated the role and services provided by the Institute of Forensic Medicine and engagement of the expert from the state prosecutor or judge as well as forensic medicine expertise as an significant proof in criminal pro-

ceedings. Further on, the training was focused on the elaboration of the role and services provided by Kosovo Forensic Agency, its relationship with prosecution office and international standards of forensic expertises.

The methodology applied in this training was a combined one, with theoretical explanations and interactive discussions, on which occasion the participants have exchanged their experiences in this field. It was also discussed the creation of best practices in this regard.

The beneficiaries of this training were judges of basic level.



Judicial procedure in marital dispute resolution

On 07 June 2016, within the Continuous Training Program (CTP), KJI has realised training on the topic “Judicial procedure in marital dispute resolution”.

The purpose of this training was to advance the skills of judges in building and implementation of unique standard with regard to proper application of the legislation that refers to the procedure of marital resolution, treating the problems and dilemmas encountered in current judicial practice in terms of development of this procedure.

Within this training there were elaborated the main principles of the marital resolution proceedings, the court's competence to resolve these disputes, as well as initiation of proceedings for resolution of marriage. Further on, it was elaborated the

procedure of marital resolution by annulment, the reasons for absolute and relative annulment, judicial proceedings for marital resolution by divorce, general and specific causes, stages of divorce proceedings, mode of taking decision in these disputes and regular and extraordinary objection means in cases when they are allowed.

The applied methodology in this training was combined with theoretical explanations and discussions among participants in resolving the dilemmas that occurred in uniform interpretation and implementation of judicial practice.

The beneficiaries of this training were judges of basic level.



Fine and order for community service work

On 09 June 2016, Kosovo Judicial Institute has realised training in the field of juvenile justice - criminal aspect, on the topic "Fine and order for community service work".

The training intention was that through elaboration of judicial practice and analysis of legal provisions in the occasion of imposing the fine and order for community service work to provide best practices in this field.

The topics in the focus of this training were the fine as a punishment imposed on a minor, the criteria for the imposition of a fine punishment, order for community service work as an alternative measure, cases when the court may replace the fine with the order for community service work as well as conditions of imposing an order for community service work. In addition, it was elaborated the role of Kosovo Probation Service in the process of organiz-

ing, implementation and supervision of execution of sentence with an order for community service work.



The methodology applied in this training was a combined one, with partial theoretical explanations, interactive discussions, and hypothetical cases presented by trainers.

The beneficiaries of this training were judges of the basic level.



Roundtable Discussion of the Court of Appeal

From 9 to 10 June 2016, KJI within its regular activities, has organized roundtable discussion for judges of the Civil Division of the Court of Appeal, Department of Economic and Department of Administrative Affairs in which are discussed topics such as: "The legitimacy of the party, the session in second instance court, compensation of non-material damage, the issue of interest rates, experts, lawsuits for confirmation of ownership, construction, housing disputes, obstruction to possession, court fees", etc.

After two days of discussions and confrontations of arguments related to topics and issues that were in the focus according to the agenda prepared before, there were proceeded final conclusions. These conclusions are finalized and reviewed during each item of the roundtable from the roundtable's panellists.

Roundtable in question was beneficial for participants, considering that the KJI is continuously supporting judges with such roundtables, since this roundtable follows previous roundtable which was held in February 2016. The roundtables main aim are the harmonization of judicial practice in the civil field and avoidance of current dilemmas that are emerging in the courts of the Republic of Kosovo.

The panellists in this roundtable were Mr. Kujtim Pasuli and Mr. Isa Kelmendi, judges in the Court of Appeal.

In this roundtable participants were judges of the Court of Appeal - Civil Division, Department of Economic Affairs and Department of Administrative Affairs, and the KJI's representative.



Alternative procedures

On 6, 8 and 15 June 2016, Kosovo Judicial Institute in cooperation with the Kosovo Prosecutorial Council and support from the OSCE, has conducted three regional trainings on the topic "Alternative procedures".

The aim of these trainings was to address the importance that alternative procedures have as the fastest option for solving criminal cases, in terms of creating a criminal justice system that guarantees a fair trial.

The focus of the training was to analyse the application of alternative procedures in practice, general aspects regarding alternative procedures such as, diversion, temporary suspension of the procedure, conditions when prosecution is not com-

pulsory under Articles 184, 230 and 231 of the CPC, mediation as well as guilty plea agreements based on the applicable legal framework in Kosovo.

The training was conducted through discussions of the participants, who via various of questions have raised dilemmas and difficulties in applying in practice these procedures.

The beneficiaries of this training were judges, prosecutors and professional associates from all regions of Kosovo.



Labour disputes with a special emphasis on civil servants

On 16 June 2016, Kosovo Judicial Institute within the Continuous Training Programme (CTP), has realised training on the topic “Labour disputes with the special emphasis on civil servants”.

The purpose of this training was decoding and treatment of challenges and difficulties in implementation of legislation on civil servants and dilemmas that were created as regards with competences in deciding upon the civil servants disputes.

During this training there were elaborated disciplinary proceedings that take place within the employing authority the proceeding for resolving disputes and complaints, legislation on the Independent Oversight Board for Civil Service as final a final authority in administrative proceedings, provisions that define the proceeding and deadlines for conducting the disciplinary proceeding within the employing authority, proceeding and deadlines for decision making at Disciplinary Committee, the provisions that define the proceeding and deadlines of appealing within the employing authority and in the Council, the proceeding

and deadlines for reviewing the complaint at the Committee for resolution of disputes and complaints and in the Council and forms of decision making at Disciplinary Committee.

Further on, there were treated the Committee’s competences in resolving disputes and complaints in the Council, the responsibilities of accountable persons and institutions in implementation of Council’s decisions, the proceeding in case of non-implementation of the Council’s decision and provisions of the legislation related to functions and competencies of the Council.

In addition, there were elaborated the proceeding for protection of labour rights and respecting the established deadlines in requesting protection, specifically the exhaustion of domestic remedies in gaining the right to request judicial protection and the legal consequences of failure to comply with these deadlines.

The beneficiaries of this training were judges of basic level and professional associates.



Human trafficking

On June 21, 2016, KJI with the support of the Council of Europe Office in Pristina has conducted training on the topic "Human Trafficking".



The purpose of this training was to increase the professional capacities of the judiciary in order to enhance efficiency and effectiveness in combating against human trafficking criminal acts, in the context of the

protection of human rights.

In the focus of this training was detailed analysis of domestic legislation and international acts that sanction and regulate various aspects that are associated with the elements, forms and procedures of investigation, treatment of victims of trafficking in human beings as well as the forms of efficient national, regional and international cooperation .

Within this training there were conducted discussions on specific cases from practice about effective forms seizure and confiscation of assets of traffickers, who have benefited from trafficking in human beings.

The beneficiaries of this training were judges and prosecutors of basic level as well as officials from the Kosovo Police.



Protection and promotion of diversity, tolerance and equality in the context of legislation on non-discrimination

On June 23 2016, Kosovo Judicial Institute with the support of the Council of Europe Office in Prishtina, has conducted training in the field of protection of human rights, on the topic "Protection and promotion of diversity, tolerance and equality in the context of legislation on non-discrimination".

The training was conducted in order to contribute to the advancement of professional knowledge of the beneficiaries in clarifying and decoding the complexity of the legislation on non-discrimination in Kosovo, as well as access and equal treatment of LGBT community by the judiciary.

Within this training was elaborated domestic legal framework that regulates this field, the principle of equal treatment, the key concepts of discrimination, discrimination categories and areas that are most affected by this phenomenon. Additionally, during

the training there were conducted awareness activities on diversity, prejudice, non-discrimination and equality.



The training was conducted through theoretical explanations and interactive discussions related to the difficulties in proper application of the legislation on non-discrimination.

The beneficiaries of this training were judges of basic level.



Declaration of property

On June 23 2016, Kosovo Judicial Institute in cooperation with Kosovo Prosecutorial Council and support by OSCE has conducted regional training on the topic "Declaration of property".

The training aimed to elaborate in detail manner the article 437 of the Criminal Code, which anticipates non-reporting or false report of property, income, gifts or other material benefits as a criminal offense and in this way contributes in avoiding the uncertainties that exist in current judicial practice.

The training was focused on the elaboration of the issue of raising the indictments regarding the declaration of property by Article 437 of the Criminal Code, and the court's responses by means of the judg-

ments, toward giving righteous interpretation about the practical implementation of this article. Further on, the training proceeded by treating the elements of this offense prescribed by law, wherein it was stressed that the law is quite decisive and does not leave room for other interpretations.

The methodology applied in this training was the combined one with interactive discussion approach, towards creating a unified judicial system and protection of this system from baseless accusations that continue to undermine public trust in justice.

The beneficiaries of this training were judges and prosecutors from the region of Mitrovica, Ferizaj and Gjilan as well as officials from the Anti-Corruption Agency.





Article 6 of the Convention for Protection of Human Rights and Fundamental Freedoms and its implementation

On June 30 2016, Kosovo Judicial Institute in cooperation with the Council of Europe Office in Prishtina has conducted training on the topic "Article 6 of the Convention for Protection of Human Rights and Fundamental Freedoms and its implementation".

The training has aimed to decode and properly understand the provisions of Article 6, so that through detailed analysis of the provisions of this Article, to clarify the impact on the domestic legal order and the application of the judicial practice of European Court of Human Rights in conjunction with Article 6 of the European Convention of Human Rights.

The training were focused on the elaboration of the scope of work and structure of Article 6, the standards arising from this article as well as procedural safeguards according to provisions of Article 6 of the European Convention of Human Rights. Further on, there were treated the independence and impartiality of the courts in the context of Article 6 of the European

Convention of Human Rights and the practice of European Court of Human Rights and were presented cases from judicial practices of European Court of Human Rights.

The dilemmas and questions during training were addressed and treated through partial theoretical explanation and concrete exam-



ples from practice.

The beneficiaries of this training were judges and prosecutors of basic level.

Activities from Research and Publications Program (RPP)

Editorial Board meeting

On June 24 2016, at Kosovo Judicial Institute took place a meeting of the Editorial Board relating to KJI's publications.



The purpose of this meeting was to review the abstracts of the paper works for the magazine "Opinio Juris" as well as their

selection for publication in this magazine. During the review of the abstracts, the Editorial Board has stressed the importance of paper works' quality for publication in the magazine "Opinio Juris" and the needs of the judiciary and legal professionals in practical aspects as well as their contribution in publishing of this magazine. In this meeting are reviewed the abstracts for which Editorial Board discussed and decided upon the competence stipulated in the KJI's Regulation for Research and Publications, wherein there were defined the deadlines for dispatching the paper works and there has been made a separation of the material for evaluation and correction.



Training for Administrative staff of Courts and Prosecution

Introductory course – module 1

From 30 -31 May and from 1-3 June 2016, KJI has realized training from the first module of the introductory course for administrative staff of courts and prosecution offices.



The purpose of the training was building the professional skills and capacities, increasing the performance of the administrative staff of courts and prosecution offices, acquaintance with general information about the structure and administration of the judicial system as well as the principles and main tasks in performing administrative tasks within the system and fostering quality services provided by members of the administration.

By the introductory course, over the five days of training, there were treated topics

such as: introduction into Kosovo judicial system, constitutional principles and regulations, legislation and institutions, brief examination of judicial reform in historical aspect and recent legislative changes dealing with the structure and functioning of the judicial and prosecutorial system, introduction into judicial administration, respective legislation, functions and responsibilities, Code of Ethics and professional conduct, access to information, confidentiality of data and classified information and data protection, the concept of "Quality Oriented Services" and in the service of citizens as well as introduction into planning, management, time management and stress.

After each theoretical part the training is characterized by working in groups of participants.

The beneficiaries of the training were officials of courts and prosecution offices including: professional associates, legal officials, personnel officials, information officials, certification officials, expenditure officials, financial officials and logistics officials.



Drafting and legal reasoning

On June 29 2016, Kosovo Judicial Institute has conducted training for professional associates on the topic "Drafting and legal reasoning" in criminal and civil aspect.

The purpose of this training was to increase the quality of work of the participants in drafting various legal acts and ensuring access and unified standards for drafting of all types of courts' acts.

In the focus of the training were: types of courts' acts and announcements, standards, applicable forms and procedures, the process of reasoning and drafting of judicial decisions, practical exercises and presentation forms and samples to ensure uniform access and good quality, acquaintance

with main duties and responsibilities of members of the administration to deal with civil and criminal cases, work upon cases, record keeping, reporting and communication flow, forms, samples and procedural requirements, correct use of the language and standard of official correspondence.

The training was conducted through participants' discussions on IRAC method as an effective arrangement in drafting judicial decisions.

During the training there were elaborated cases from judicial practice. The beneficiaries of this training were courts' professional associates from the supreme and basic level.



Training of Trainers

Interactive techniques and training structure

From 22 to 23 June 2016, Kosovo Judicial Institute in cooperation with the twinning project "Further Support to Legal Education Reform" has conducted a training of trainers on the topic "Interactive techniques and training structure"

The training's main goal was the development of future trainers' skills and abilities in relation to the techniques and specifics of training, with the intention to provide qualitative and attractive trainings for the participants.

During the training, the trainers have had the opportunity to get acquainted with the types of learning, competencies and appropriate methods to enhance the competen-

cies of judges, drafting of training material and utilising resources as well as setting training objectives.

In addition, within the training were explained the guidelines that include the process of organizing the trainings, including practical cases, the plan for implementing the training, PowerPoint.

The beneficiaries of the training were the judges, court administrators, communications managers and officials for managing the cases, all future trainers of KJI.

This training was conducted by the German experts in the field of judicial training.



Training of Trainers on Judicial Ethics

From 29-30 June 2016, Kosovo Judicial Institute in cooperation with the USAID's Justice System Strengthening Program has organized training of trainers with the focus on judicial ethics.

The purpose of the training was to increase the practical knowledge and skills of judges regarding training techniques and theories of adult learning.

In this context, alongside elaboration of various interactive techniques that can be used by trainers during the training it was also elaborated the theory of KOLB's cycle on the modes for adult learning.

Another aim of the training was to analyse the changes and innovations of the code of professional ethics for judges wherein were discussed modes how the trainers shall address these innovation in training.

In addition, the agenda was drafted for the trainings to be held with judges including coordination of the materials to be used in trainings.

The beneficiaries of the training were KJI's trainers who will be engaged in the trainings on judicial ethics for judges.



Other activities

Conference on launching iPROCEEDS project

On 13-14 June 2016, in Ohrid, Macedonia was held a conference on launching iPROCEEDS project, a joint project of the European Union and the Council of Europe, under the instrument of pre-accession (IPA) covering all countries in the region, including Kosovo.



The aim of the conference was presentation and review of national capacities and needs related to cybercrime and the prevention of money laundering through internet in terms of strengthening the capacity of authorities of the countries of Southeast Europe and Turkey.

During this conference was presented the draft report on current situation, drafted after completion of the initial phase, visits of experts in the beneficiary countries of the project and working plan along with activities planned by the iPROCEEDS project. There were also conducted two regional workshops with a focus on sharing private / public information and mechanisms for exchange of intelligence between the financial sector institutions, units of cybercrime and other stakeholders, as well as regional workshop on international cooperation between local units of cybercrime, financial investigation units, financial intelligence units, the competent authorities for prosecution and judicial cooperation.

This conference was attended by the teams of countries of Southeast Europe region, while the team from Kosovo was also attended by a representative of the Kosovo Judicial Institute.



HELP, the main way to harmonize the jurisprudence

On 16-17 June, The Council of Europe has organized the annual conference of the HELP Network, entitled "HELP, as the main way to harmonize jurisprudence".

The main purpose of the conference was to discuss methodological approaches and tools for measuring the impact of trainings on human rights for legal professionals including exchange of best practices of member countries of HELP. Also during this event was introduced the publication entitled "Guide HELP" for training methodology on human rights for legal profession-

als," the purpose of which is to provide examples of forms and interactive courses on human rights.

Another objective of the conference was the election of new members of the Consultative Council of HELP.

KJI in the capacity of observer at the HELP program of the Council of Europe was represented by Act. Director of KJI and Head of CTP Program.



Regional conference

Legal protection against discrimination in Eastern Europe

From 28-29 June 2016, in the city of Budva in Montenegro there was held Regional Conference with the topic 'Legal Protection against discrimination in Eastern Europe'.

The purpose of the conference was the presentation of the reports from the project "Legal protection against discrimination in South East Europe" at the regional level for the period October 2015 to August 2016, as well as improving the methodological capacity of stakeholders in acting against discrimination in Eastern Europe.

The works during the conference are conducted in groups with the topics legal education and training on anti-discrimination in SEE as well as strengthening of anti-discrimination and capacities in South-Eastern Europe.

The conference was attended by about 80 representatives of various state institutions of South-Eastern Europe such as: the main partners of the public law faculties represented through South- Eastern European Network, Law School (SEELS) from the region of South- Eastern Europe, the judiciary and training institutions, anti-discrimination state authorities from Eastern European countries. From Kosovo delegation apart from other institutions also has participated one representative of the Kosovo Judicial Institute.

The conference was supported by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), Open Regional Fund for South Eastern Europe Reform - Legal.



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